IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

MONDAY, THE 15TH JANUARY 2007 / 25TH PAUSHA 1928

WP(C).No. 1624 of 2007(R)

PETITIONER:

K.JAYARAJ, RAILWAY CONTRACTOR,
`GOKUL', PULLIODE, P.O.KADIRUR,
THALASSERY.

BY ADV. SRI.RAJESH NAMBIAR

RESPONDENTS:
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1. THE SALES TAX OFFICER (WORKS CONTRACT & LUXURY TAX), IST CIRCLE, KANNUR.

2. THE DEPUTY COMMISSIONER (APPEALS), KOZHIKODE.

3. TAHSILDAR, REVENUE RECOVERY, THALASSERY.

BY GOVERNMENT PLEADER SRI.SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN, J.

W.P.(C) NO. 1624 OF 2007

Dated this the 15th day of January, 2007

J U D G M E N T

Petitioner is aggrieved by the demand raised in Exhibit P7 pending consideration of his application for stay. Exhibits P8 and P9 are stay applications filed before the appellate authority along with his appeal for the two years in question. The specific contention of the petitioner is that Form 21 C was produced before the Assessing Authority, but he did not give credit to the amount covered by Form 21 C which evidences deduction of the amount by the awarder. If this amount is given due credit, he contends that there will not be any further liability. This contention if true will go to the root of the matter. However, since an interim application is filed, at the first instance it is for the appellate authority to consider the same with reference to the said contention and if the appellate authority is satisfied, necessarily he will have to give due weight to the said contention and give relief in the interim application. While considering the stay application if there is a strong prima facie case where the petitioner is able to show that there may not be any further

liability on him, the appellate authority has the power to grant stay without imposing any condition.

2. In such circumstances, there will be a direction to the appellate authority, the 2nd respondent herein to consider and dispose of Exhibits P8 and P9 as expeditiously as possible at any rate within a period of three weeks from the date of production of a copy of this judgment. Till then coercive steps pursuant to Exhibit P7 shall be kept in abeyance.

Writ petition is disposed of as above.

P.R.RAMAN, JUDGE

Rp